Supreme Court of the United States.

No. 238.—October Term, 1903.

Solomon L. Swarts, Trustee in Bankruptcy of Siegel-Hillman Dry Goods Company, Appellant,
vs.
L. F. Hammer, Jr., Collector of the Revenues of The City of St. Louis, Missouri.

Appeal from the United States Circuit Court of Appeals for the Eighth Circuit.

[May 16, 1904.]

Mr. Justice McKenna delivered the opinion of the Court.

The case involves the validity of taxes imposed upon property in the hands of a trustee in bankruptcy.

The appellant was duly elected and qualified as trustee of the estate of Siegel-Hillman Dry Goods Company, which had been adjudged a bankrupt. The appellant as such trustee had in his hands and on deposit in the designated depository the sum of $68,320, belonging to the estate. The appellee, as collector of the revenue of the city of St. Louis, Missouri, filed before the referee a petition alleging State, school and city taxes for the year 1901 had been regularly assessed against said sum on the first of June, 1900, and that a bill for said taxes, properly certified, had been delivered to him for collection, and prayed for an order directing the taxes to be paid. The trustee filed an answer denying the liability of the property to the taxes. After hearing, the referee made an order directing the appellant to pay to appellee the sum of $1,298.08, the amount of the tax bill for the year 1901, "together with the accrued penalties and fees provided by law."

The order was affirmed by the District Court as to the amount of taxes, but disapproved as to accrued penalties and fees. A decree was duly entered, which was affirmed by the Circuit Court of Appeals. (120 Fed. Rep. 256.)

The argument of appellant has taken somewhat wide range. The case, however, is in narrow compass. The question is not the extent of the power of Congress over the subject of bankruptcy, but what Congress intended by the act of 1898. By section seven of that act the title to all of the property of the bankrupt not declared to be exempt is vested in the trustee. By the transfer to the trustee no mysterious or peculiar ownership or qualities are given to the property. It is dedicated, it is true, to the payment of the creditors of the bankrupt, but there is nothing

in that to withdraw in from the necessity of protection by the State and municipality, or which should exempt it from its obligations to either. If Congress has the power to declare otherwise and wished to do so the intention would be clearly expressed, not left to be collected or inferred from disputable considerations of convenience in administering the estate of the bankrupt. Though the opinion of the Circuit Court of Appeals is brief, it is difficult to add anything to its conclusiveness. But, as showing the trend of judicial opinion, we may refer to *In re Conhaim*, (100 Fed. Rep. 268;) *In re Kellaer*, (109 Fed. Rep. 131;) *In re Sims*, (118 Fed. Rep. 356.)

Decree affirmed.

True copy.

Test:

Clerk Supreme Court, U. S.